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GLOUCESTER, MA

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GLOUCESTER CITY COUNCIL  
9 Dale Avenue, Gloucester, MA 01930  
Office (978) 281-9720 Fax (978) 282-3051

CITY COUNCIL STANDING COMMITTEE  
Ordinances & Administration  
Monday, December 5, 2011 – 7:00 p.m.  
1<sup>st</sup> Fl. Council Conference Rm. – City Hall  
AGENDA

*(Items May be taken out of order at the discretion of the Committee)*

1. *Continued Business:*

- A) CC2011-043 (Tobey) Generate Request for Proposals seeking non-profit cultural partner re: City Hall  
(Cont'd from 11/114/11) *TBC January 2012*  
B) CC2011-053 (Verga/Tobey) Establishment of City Ordinance re: Securing and Maintaining Vacant  
Properties and Properties in the Process of Foreclosure *TBC January 2012*

2. *New Appointments:*

<i>Community Preservation Committee</i>	<i>(TTE 02/14/13)</i>	<i>Charles Crowley</i>
<i>Conservation Commission</i>	<i>(TTE 02/14/14)</i>	<i>Hugh Prichard</i>
	<i>(TTE 02/14/13)</i>	<i>John Montoni</i>

3. *Memorandum from Harbormaster re: proposed change to GCO Chapter 10, Sec. 10-51(e) Fees*
4. *CC2011-054 (Mulcahey) Amend GCO Sec. 22-287 (Disabled Veteran, handicapped parking) re: across from Central Grammar Apartments driveway in front of Mason Street #6-8 (TBC to 1<sup>st</sup> meeting in January)*
5. *CC2011-055 (Verga/Ciolino) Possible Adoption of MGL re: assessment of water betterments and deferral of such betterments; and Amend GCO Chapter 23 "Utilities" Article III accordingly*
6. *Addendum to Mayor's Report re: Memorandum regarding Health Insurance Reform – Adoption of Legislation: This matter is continued to a special meeting of the O&A Committee Monday, December 12, 2011 at 6:00 p.m. – 1<sup>st</sup> Fl. Council Committee Room*

COMMITTEE  
Councillor Sefatia Theken, Chair  
Councillor Ann Mulcahey, Vice Chair  
Councillor Bruce Tobey

*Committee members – Please bring relevant documentation*

Back-up and Supporting Documentation all on file at the City Clerk's Office, City Hall

CC: Mayor Carolyn Kirk  
Jim Duggan  
Linda T. Lowe  
Bill Sanborn  
Jim Caulkett  
David Bain

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.



## **CITY OF GLOUCESTER 2011 CITY COUNCIL ORDER**

<b>ORDER:</b> Councillor	<b>#CC2011-043</b> Bruce Tobey
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<b>DATE RECEIVED BY COUNCIL:</b> 09/13/11 <b>REFERRED TO:</b> O&A <b>FOR COUNCIL VOTE:</b>
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**ORDERED** that the Administration, the Council, and the City Hall Restoration Committee work together to generate a Request for Proposals seeking a non-profit cultural partner to share in the use and maintenance of City Hall, as per the model of this article:

<http://www.preservationnation.org/magazine/story-of-the-week/2011/a-beautiful-duet.html>

Bruce Tobey  
Councillor At Large

NATIONAL  
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FOR  
HISTORIC  
PRESERVATION

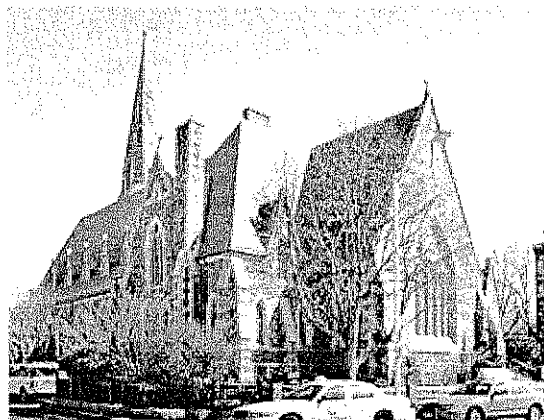
## A Beautiful Duet

### Harvard Square Church, Ballet Company Thrive in 1870 Landmark

By Deborah R. Huso | *Online Only* | July 18, 2011

Ask Charles Sullivan to describe the Old Cambridge Baptist Church in Harvard Square, and he will say, "It's a building that really wants to be a pile of stones." Sullivan is executive director of the Cambridge Historical Commission, one of several preservation organizations—including [Partners in Preservation](#), launched by the National Trust and American Express—that have helped fund ongoing restoration at the 1867 house of worship.

Recent restoration efforts would probably not have been possible without the [José Mateo Ballet Theatre](#). In 1998, Scott Fraser, managing director of the ballet company, received a telephone call from the Old Cambridge Baptist Church's administrator, asking for advice about refinishing dance floors. The ballet company needed space to grow: "Finding the right facility was our major business obstacle," Fraser says. And the congregation at Old Cambridge Baptist needed a tenant "if the church was going to survive," says Ross Dekle, a member of the church's long-range planning and building team.



José Mateo Ballet Theatre's home, Old Cambridge Baptist Church.

*Credit: Warren Jagger Photography*

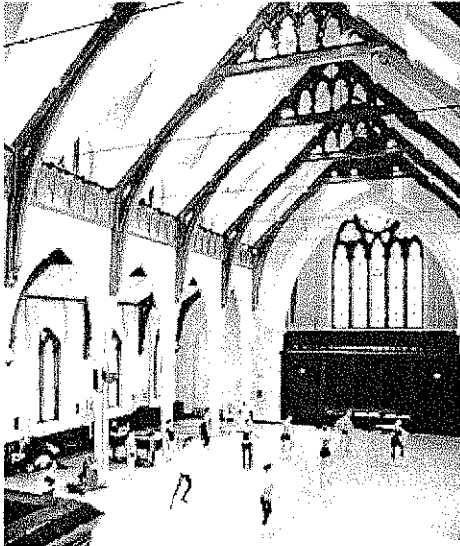
After a year and a half of negotiations and planning, the ballet company and church reached an agreement that may well be a model for saving historic places. Taking out a 41-year lease, the ballet company helped provide funding to revamp failing structures and restore interior spaces. A portion of the ballet company's rent goes towards church improvements, and the ballet has run two capital campaigns to raise money for restoration. Jointly and separately the company and the church have received grants from the Cambridge Historical Commission, totaling \$200,000, and from Partners in Preservation, in the amount of \$100,000, to restore etched glass windows. According to Fraser, the church and ballet company have invested roughly \$2.5 million in restoration and improvement projects since June 2000.

Among the improvements are the restoration of the sanctuary and the reworking of their community support helped restore interior spaces to accommodate both services and performances. "Almost all of the historic fabric has been left intact," Fraser says. "And what's been added is reversible." The only permanent structures the ballet company has added are 12-foot mirrors. Pews have been removed, but on Sundays, the church brings in chairs to accommodate services. The sanctuary's floors and subfloors were removed and a new dance floor installed, and the sanctuary's electrical wiring was redone as well.

### Boston's Open Doors

On Sept. 17, 2011, 14 historic places in the Boston area will host the Greater Boston Open House Day, offering free or reduced-price admission. The sites competed in the Partners in Preservation contest in 2009, which provided \$1 million in restoration grants from American Express. Now, two years later, the public can see how those dollars and many of these Boston sites, including the Old Cambridge Baptist Church. For more information, visit [Partners in Preservation](#).

In 2002, crews repointed the church's north face, and five years later the massive Tiffany stained glass window was taken out, repaired and restored. That effort, along with the restoration of the church steps facing Massachusetts Avenue, were undertaken with funds from both the ballet company and the congregation.



The interior of José Mateo Ballet Theatre's home, Old Cambridge Baptist Church.

*Credit: Warren Jagger Photography*

The celebrated sanctuary was built at a time when Baptists were not well received in staunchly Congregationalist Cambridge. It took three years to complete the Gothic Revival house of worship under the direction of architect Alexander Rice Esty. Early congregants included formerly enslaved African Americans. In the 20th century, it became a center for the civil rights, women's rights, and anti-Vietnam War movements. Yoko Ono and John Lennon sang in the church in the 1970s. Today the church is a National Historic Landmark and part of the Harvard Square Conservation District.

Unfortunately, the building has long required extensive and ongoing restoration work. In the 1990s, the church undertook roof and dormer repairs with the help of a Massachusetts Preservation Projects Fund matching grant from the Massachusetts Historical Commission, with a price tag of more than \$300,000. Fraser estimates that in the next five years, most masonry at the church will need to be repointed, a project likely to cost more than \$1 million. He says the church also requires about \$400,000 in window restoration. This summer, the ballet company is overseeing the repair of several windows, while the congregation is repairing the slate roof and steeple.

The Baptist/ballet partnership works well, thanks to careful planning. A modest congregation (about 50 parishioners attend the average service) uses the sanctuary every Sunday morning, for special services such as Christmas and Good Friday, and for weddings and memorials. The ballet company has use of the sanctuary, which will accommodate up to 350 patrons, most of the rest of the time, with about 78 active performance nights each year. Fraser says about 125,000 people visit the church annually, including about 75,000 for ballet classes or performances.

How can the religious and secular uses of the church work so successfully? "The ballet company is not guided by religious principles," Fraser says, "but both organizations care about preservation. We work together based on our shared values."

*Deborah Huso is a freelance writer living in Virginia.*

***For more photos, stories, and tips, [subscribe to the print edition of Preservation magazine.](#)***

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## Comments



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## **CITY OF GLOUCESTER 2011 CITY COUNCIL ORDER**

<b>ORDER:</b>	<b>#CC2011-053</b>
<b>Councillor</b>	<b>Greg Verga and Bruce Tobey</b>

<b>DATE RECEIVED BY COUNCIL:</b>	<b>10/25/11</b>
<b>REFERRED TO:</b>	<b>O&amp;A</b>
<b>FOR COUNCIL VOTE:</b>	

ORDERED that the Ordinances and Administration Committee in consultation with the Health Department, the Inspectional Services Department, the Fire Department, and the Affordable Housing Trust Committee review any City of Gloucester existing ordinances or regulations which relate to abandoned, bank-owned, or absentee owner properties to determine if any such ordinances or regulations adequately address health and public safety issues as well as matters of neighborhood blight and in conjunction with such consultation and review amend the Gloucester Code of Ordinances by

**ADDING:** a new section in Chapter 5, Article V "Buildings" to be entitled "Securing and Maintaining Vacant Properties and Properties in the Process of Foreclosure".

Background: This Order seeks to resolve a quality of life issue caused by the presence of abandoned buildings in neighborhoods in the City. Discussion should focus on existing ordinances in other cities in the Commonwealth which have been successful in dealing with this issue, such as the ordinance enacted by the City of Worcester in 2009 which is attached to this Order.

Greg Verga  
Ward 5 Councillor

Bruce Tobey  
Councillor at Large

# Worcester

~~apply whenever, in the opinion of the building commissioner, the condition of any designated historic building requires immediate emergency action to abate a threat to the health or safety of the public. Nor shall the provisions of said subsection (c) apply to the demolition of a designated historic building located on any priority development site designated by the city council pursuant to G.L. c. 43D.~~

## §14. Securing and Maintaining Vacant Properties and Foreclosing Properties - (Amended December 15, 2009 - 9415)

(a) Unsecured and unmaintained vacant properties and foreclosing properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

(b) The following words and phrases, when used in this section, shall have the following meanings:

*building* - any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property.

*certificate of closure* - certificate issued by the director to the owner of a vacant or foreclosing property upon compliance with the provisions of paragraph (c) herein.

*director* - the director of health and housing inspection.

*days* - consecutive calendar days.

*fire chief* - the chief of the Worcester Fire Department or his or her designee.

*foreclosing* - the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

*initiation of the foreclosure process* - taking any of the following actions:

- (i) taking possession of a residential property pursuant to General Laws chapter 244 § 1;
- (ii) delivering the mortgagee's notice of intention to foreclose to borrower pursuant to General Laws Chapter 244 § 17B;
- (iii) commencing a foreclosure action on a property in any court of competent jurisdiction; or
- (iv) recording a complaint to foreclose with the registry of deeds.

*local* - within twenty miles of the property in question

*mortgagee* - the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

*owner* – every person, entity, service company, or property manager who alone or severally with others:

- (1) has legal or equitable title to any real property, including, but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- (2) has care, charge or control of real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, or any administratrix, trustee or guardian of the estate of the holder of legal title; or
- (3) is a mortgagee of any such property;
- (4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to General Laws chapter 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or
- (6) every person who operates a rooming house; or
- (7) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process; or
- (8) has recorded a complaint to foreclose with the registry of deeds.

*property* – any real property, or portion thereof, located in the city, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the city, the commonwealth or the United States of America.

*secured, securing* – making the property inaccessible to unauthorized persons.

*vacant* – any property not currently legally occupied and not properly maintained or secured.

(c) Any owner of a vacant and/or foreclosing property shall forthwith:

1. Provide written notification to the director and the fire chief of the status of such property, including in such notice, the name, address and telephone number of the owner; the location of the property; the length of time the building has been vacant; the estimated time the building will remain vacant; and the nature of the contents of the building; and,
2. As may be required by the fire chief, file one set of space utilization floor plans for any buildings on said property with the fire chief and one set of said plans with the director. The owner shall certify space utilization plans as accurate twice annually, in January and July; and,
3. Remove from the property, to the satisfaction of the fire chief, hazardous material, as that term is defined in Massachusetts General Laws, chapter 21K, as that statute may be amended from time to time; and,



4. At the discretion of the fire chief or director, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or provide twenty-four (24) hour on-site security personnel on the property. When a vacant or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and,
5. Post "No Trespassing" signs on the property. Said signs shall be no smaller than 8 inches by 11 inches with lettering no smaller than 2 inches high, and shall be visible from the street. However, this requirement may be waived by the director upon written request from the owner or designee; and,
6. Maintain the property in accordance with Chapter 8, § 42 of these Ordinances, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and,
7. If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; however, this requirement may be waived by the director upon written request from the owner or designee; and,
8. Maintain the property in accordance with all other relevant state codes and local regulations concerning the maintenance of property; and,
9. Provide the fire chief and director with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the fire chief or director; and,
10. Maintain liability insurance on the property and furnish the director with a copy of said certificate of insurance; and,
11. Provide a cash bond acceptable to the director, in the sum of not less than five thousand dollars, to secure the continued maintenance of the property throughout its vacancy and remunerate the city for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the city as an administrative fee to fund an account for expenses incurred in inspecting, securing and marking other such buildings that are not in compliance with this Section. Any owner of a vacant or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties it owns in the City.
12. Notify the director and fire chief in writing when the property is sold or transferred.

Upon satisfactory compliance with the above-provisions, the director shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the director and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

(d) Signs/Markings - When required pursuant to this section, signs or markings on buildings determined to be especially unsafe in case of fire shall be applied on the front of the property, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows, or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the property. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the fire chief and director.

(e) Enforcement - Failure to comply with any provision of paragraph (c) above shall be punished by a fine of three hundred (\$300.00) dollars with each day of violation constituting a separate offence. This section may also be enforced by civil, criminal process or non-criminal process, including injunctive relief. The director and/or the fire chief shall be enforcing persons for purposes of this section.

(f) The director or fire chief, upon being informed of the existence of a vacant or foreclosing property without a certificate of building closure, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or director may enter the premises to inspect, secure and mark the property, and/or remove rubbish or overgrowth, or to abate a stagnant pool of water. The fire chief or director may also seek enforcement pursuant to section (e).

(g) Expenses - The owner of a vacant or foreclosing property who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in securing such property, for removing rubbish and overgrowth, and/or for abating stagnant pools of water. The director shall provide the owner with a written statement of all costs associated with inspecting, securing and marking the property, and removing rubbish or overgrowth, or abating stagnant pools of water. If the owner fails to pay or reimburse the city within seven days of notice of expenses, the city shall draw down upon the bond paid by the owner as required in subsection 10, above. If there is no bond available, the director shall record the notice of claim in the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(i) No owner of a vacant or foreclosing property shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain overgrowth, or to have a stagnant pool of water. If it appears that any vacant or foreclosing property is unsecured, contains rubbish, overgrowth, or a stagnant pool of water, the director, shall send written notification to the owner, requiring that the owner promptly secure the property, remove the rubbish or overgrowth, or abate the stagnant pool of water.

If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or director may immediately seek to obtain the proceeds secured by the bond filed pursuant to paragraph (c) (11) herein and shall enter upon the premises and cause the property to be inspected, secured and marked, or to remove rubbish, overgrowth, or stagnant pools using said proceeds.

(i) All unsecured vacant or foreclosing properties shall be immediately referred to the director for a determination relative to whether the property is a nuisance or dangerous pursuant to chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

1. Personally on any owner as defined in this section, or on the contact person specified pursuant to paragraph (c)(9); or,
2. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to paragraph (c)(9), if such place of abode is known and is within or without the commonwealth; or,
3. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to paragraph (c)(9).

#### ~~§ 15. Abandoned Shopping Carts~~

~~(a) Introduction. Commercial establishments, for the convenience of their customers, provide shopping carts. However, they often end up being abandoned on streets (public and private), sidewalks, in public parks and cemeteries and other public property other than that of the commercial establishment. When this happens, the carts constitute a hazard and a nuisance. Municipalities have tried a number of approaches to combat this problem in an attempt to keep carts on the respective premises. Legislation is enacted to require shoppers to promptly return the cart; to declare abandonment of carts unlawful; to require that carts are permanently identified, including the name of the establishment, the address and telephone number; to require that signs are posted, stating that it is illegal to remove carts from the premises; and to require that no carts can remain unsecured in the parking lot after business hours. Furthermore, the city is authorized to impound abandoned carts. The establishment, upon payment of a fee, may retrieve them and any unclaimed carts become the property of the city.~~

~~(b) Legislative Intent. The city council of the city finds and declares that the unlawful taking, misuse and abandonment of shopping carts and similar conveyances constitute a hazard to the health, safety and general welfare of the populace of the city adversely affecting the legitimate conduct of business in the city and constitute a nuisance detrimental to individual neighborhoods and the community at large. The purpose of this section is to reduce the incidences of unlawful taking, misuse and abandonment of these devices through reasonable safeguards, by discouraging and preventing their removal from the property of the owner and by the establishment of penalties for violations of this section.~~

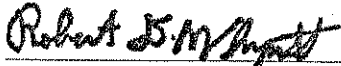


**Gloucester City Council**  
**CERTIFICATE OF VOTE**  
**Certificate Number: 2008-054**

The Gloucester City Council, at a meeting held on **Tuesday, September 2, 2008**, at 7:00 p.m. in the Kyrourz Auditorium voted to approve the following action

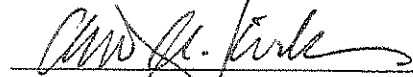
**IN CITY COUNCIL:**

**MOTION:** The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council amendment of Chapter 1, Section 1-15, entitled "Penalty for violation of certain specified sections of Code" by ADDING the vacant building registration fee schedule based on square footage, as proposed and by ADDING Chapter 5, Article II, Division 3, entitled "Vacant Buildings", Sections 5-30 through 5-36, as proposed.



Robert D. Whynott, City Clerk

**APPROVAL OF THE MAYOR**



Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

\_\_\_\_\_  
Carolyn A. Kirk, Mayor

**SIGNED THIS 18 DAY OF Sept., 2008**

*All Ordinances shall become effective 31 days after passage except:*

*Emergency Orders shall become Effective Next Day*

*Zoning Changes shall be Effective Next Day.*

AMENDMENT TO THE GLOUCESTER CODE OF ORDINANCES

In order to accommodate Section 5-36 of the proposed Vacant Buildings ordinance, Section 1-15 of the Code of Ordinances needs to be amended by adding the following:

*"Chapter 5, Article II, Division 3, sections 5-30 - 5-37 (vacant buildings):*

Each day a violation continues will be treated as a separate offense. A violation of this ordinance shall be three hundred dollars (\$300.00) per day.

Enforcing person: Inspector of Buildings or his/her designee."

February 26, 2008

ORDERED to a first reading.

April 17, 2008

ORDERED to a second reading.

May 8, 2008

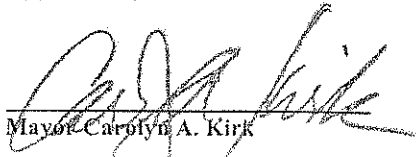
ORDERED to a third and final reading.

ORDERED ENGROSSED AND ORDAINED

On a Roll Call: Councilors.....

.....9/2/2008.....8-0

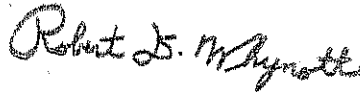
Approved by:

  
Mayor Carolyn A. Kirk

September 18, 2008  
Date

Attest:

City Clerk



Page 4 of 4

A True Copy

ATTEST:

Robert D. Whynott, City Clerk

Date: \_\_\_\_\_



# CITY OF GLOUCESTER

INSPECTIONAL SERVICES  
3 POND ROAD  
GLOUCESTER, MA 01930

## AN ORDINANCE PERTAINING TO VACANT BUILDINGS AND AMENDMENT TO SECTION 1-15 OF THE GLOUCESTER CODE OF ORDINANCES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLOUCESTER AS  
FOLLOWS:

### Chapter 5. Article II. Division 3. VACANT BUILDINGS

#### Section 5-30. Purpose

The City has found that vacant buildings are eyesores and hazards which often offer easy shelter for criminal activities, arson and accidental fires. As well, vacant buildings cause surrounding areas to suffer from stagnant or declining property values and create significant costs to the City by virtue of the need for constant monitoring and occasional cleanup. Accordingly, the purpose of this Ordinance is to require the registration of all vacant buildings, both residential and commercial, which will assist the City government in protecting the public health, safety and welfare of its residents by encouraging the prompt rehabilitation and permanent occupancy of such abandoned structures.

#### Section 5-31. Definition

For purposes of this Ordinance, a "vacant" building means any commercial building in which no person or entity actually conducts a lawfully licensed business in such building; or any residential building in which no person lawfully resides in any part of the building; or a mixed use building in which neither a licensed business nor a lawful resident exists. Further, any building in which more than one half of the total exterior windows and doors are broken, boarded or open without a functioning lock shall be deemed "vacant" regardless of occupancy.

### **Section 5-32. Registration**

Within 45 days of a building becoming vacant, each owner of a vacant building shall register the building with the Inspectional Services Department by filing a form, created by the Department, with the name, address and telephone number of each owner, and the street address, map, and lot number of the building. If none of the owners reside in the Commonwealth of Massachusetts, then the registration shall also include the name, address and telephone number of a Massachusetts resident who is authorized to accept service of process on behalf of the owners, and who shall be designated as a responsible local agent, both for purposes of notification in the event of an emergency affecting public health, safety and welfare, and of service of any and all notices issued pursuant to this Ordinance. The failure to timely register a vacant building shall be a violation of this Ordinance.

### **Section 5-33. Registration Fees**

On or before November 15 of each calendar year, the owners of any vacant building shall pay to the Inspectional Services Department a registration fee to cover the administrative cost of monitoring and enforcing proper maintenance of the vacant building. The annual registration fee shall be based on the duration of the vacancy as of November 15 of each year according to the following schedule:

Residential Buildings containing up to three dwelling units, the registration fee shall be:

**\$500.00** - For properties that have been vacant for less than one year.

**\$1,000.00** - For properties that have been vacant for one year or more but less than two years.

**\$2,000.00** - For properties that have been vacant for two years or more but less than three years.

**\$3,000.00** - For properties that have been vacant for three years or more.

Commercial Buildings including residential with 4 or more dwelling units, and mixed use that are less than 7,500 ft. of floor area, the registration fee shall be:

**\$500.00** - For properties that have been vacant for less than one year.

**\$1,000.00** - For properties that have been vacant for one year or more but less than two years.

**\$2,000.00** - For properties that have been vacant for two years or more but less than three years.

\$3,000.00 – For properties that have been vacant for three years or more.

For any Commercial Building over 7,500 sq. ft of floor space, the following formula shall be added to the above registration fees: sq. ft area of floor space x \$.20 = \$ Amount. This extra fee would be justified by the work involved by the inspector to verify that both the sprinkler and fire alarm systems are maintained.

A failure to timely pay the registration fee shall be a Violation of the City of Gloucester Code of Ordinances. The full fee shall be deemed an assessment resulting from a Violation of this Ordinance. Said fee shall be a municipal charges lien and shall be collected in accordance with M.G.L. Ch. 40, Sec. 58.

#### **Section 5-34. Billing Statement**

On or before October 15 of each calendar year, the Inspectional Services Department shall send a *billing statement, setting forth the required Registration Fee*, to each owner of a vacant building. However, the Registration Fees set forth in Section 5-65 shall be due and payable on November 15 of each year regardless of the delivery or receipt of such billing statement.

#### **Section 5-35. Other Violations**

The provisions of this Ordinance are in addition to, and not in lieu of, any and all other applicable provisions of the Code of Ordinances of the City of Gloucester, and the laws of the Commonwealth of Massachusetts.

#### **Section 5-36. Enforcement**

Any person or entity violating this Ordinance, by failing to register a vacant building, or failing to pay the registration fee, shall be subject to a fine of up to \$300.00 per offense. Each day that the owner is in violation shall constitute a separate offense. The Inspector of Buildings or his/her designee shall have the right to enforce this Ordinance pursuant to the non-criminal disposition procedures set forth in Section 1-15 of the City of Gloucester Code of Ordinances.

Secs. 5-37 – 5-39. Reserved.



City Hall  
Nine Dale Avenue  
Gloucester, MA 01930



CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

TEL 978-281-9700  
FAX 978-281-9738  
ckirk@gloucester-ma.gov

October 24, 2011

Mr. Charles Crowley  
6 Eveleth Road  
Gloucester, MA 01930

Dear Mr. Crowley:

I am pleased to appoint you as the Open Space and Recreation Committee's representative on the **Community Preservation Committee**. As you are being appointed to fill the unexpired term of Daniel Morris, your term will expire February 14, 2013. Your appointment will be sent to the City Council for their meeting of November 15, 2011 and will be referred out to the Ordinance and Administration subcommittee. You will be contacted by the Clerk of Committees as to when to appear.

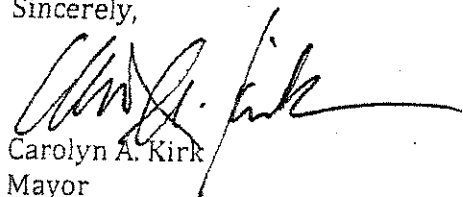
In order for you to attend and vote at meetings until your appointment confirmation is finalized, I have issued you a 90-day temporary appointment. Please report to the City Clerk's office to pick up your appointment card (*copy enclosed*) and be sworn in at your earliest convenience.

On behalf of the City of Gloucester, I greatly appreciate your dedication to public service and look forward to working with you in the coming years to help make Gloucester a better place for all of us to live.

If you have any questions or if you require any additional information, please feel free to contact my office.

Thank you again.

Sincerely,

  
Carolyn A. Kirk  
Mayor

cc: Mayor's Report to City Council  
Sarah Garcia, Community Development Director  
Sandra Dahl Ronan and J.J. Bell, Co-Chairs-Community Preservation Committee

Enclosure  
CAK/c

EFFECTIVE OCTOBER 24, 2011

**The City of Gloucester, Massachusetts**

Dear Charles Crowley, 6 Eveleth Road, Gloucester, MA 01930

It is my pleasure to inform you that I have this day appointed you  
to the Community Preservation Committee of the City of  
Gloucester, Massachusetts

This is a 90-day temporary appointment. After City Council  
approval, term to expire 2/14/2013. (Filling unexpired term  
of Daniel Morris.)

Respectfully,

N.B. You are required to be sworn in at the office of the City Clerk before acting  
under this appointment.

Sworn in \_\_\_\_\_ By: \_\_\_\_\_

**From:** John McElhenny <jmcelhenny@gmail.com>  
**To:** Jim Duggan <jduggan@gloucester-ma.gov>  
**Cc:** ckirk@gloucester-ma.gov <ckirk@gloucester-ma.gov>; Charles Crowley  
<charlie@topdogstudio.com>; Stephen Winslow <swinslow@gloucester-ma.gov>  
**Sent:** Wed Oct 19 15:15:12 2011  
**Subject:** Request from the City's Open Space and Recreation Committee

To the Mayor's Office

Jim,

The City of Gloucester's Open Space and Recreation Committee requests that Charles Crowley replace Dan Morris as the Open Space and Recreation Committee's representative on the Community Preservation Committee.

Can you let us know if any further action is required?

Thank you,  
John McElhenny  
Chairman, Open Space and Recreation Committee  
Allen Street, Gloucester

**Chapter XXXX  
City of Gloucester  
Community Preservation Act**

<b>Section X</b>	<b>Establishment</b>
<b>Section XX</b>	<b>Membership and Terms</b>
<b>Section XXX</b>	<b>Terms of Office</b>
<b>Section XXXX</b>	<b>Authority, Duties and Responsibility</b>
<b>Section XXXXX</b>	<b>Quorum and Voting</b>
<b>Section XXXXXX</b>	<b>Severability</b>

**Section X                    Establishment**

There shall be a Community Preservation Committee ("Committee"), in accordance with Chapter 267 of the Acts of 2000, Massachusetts Community Preservation Act, MGL chapter 44B, §1, et seq., which shall consist of nine (9) members as follows:

**Section XX                Membership and Terms**

The community preservation committee shall consist of nine (9) members, all of whom shall be residents of the city. Committee members shall be appointed by the Mayor and confirmed by the city council for a period of three years expiring on February 15. Committee shall be composed of the following:

- 1) Four members shall be members of the boards and commission as required by the Community Preservation Act, GL c. 44B section 5 and appointed by the Mayor subject to confirmation of the City Council. If a statutory board or commission no longer functions or exists within the city then the Mayor shall appoint a member from the general public who has expertise or performs like duties as the board or commission. Each board or commission shall submit the name of one of its members to sit on the committee within 45 days of a vacancy of the statutory membership. The statute directs that a member from each of the following shall be designated as a member of the committee:
  - a) one member of the Conservation Commission as designated by the Commission.
  - b) one member of the Historical Commission as designated by the Commission.
  - c) one member of the Planning Board as designated by the Board.
  - d) one member of the Parks and Recreation Department.
  - e) one member of the Housing Authority as designated by the Authority.
- 2) There shall be four members of the general public not currently holding elected or appointed office, as appointed by the Mayor.
  - a) The At-Large members shall include at least one citizen who has expertise or demonstrated interest in open space, at least one citizen who has expertise or

demonstrated interest in recreation, at least one citizen who has expertise or demonstrated interest in historic preservation and at least one citizen who has expertise or demonstrated interest in affordable housing.

- b) To the extent possible the members of the committee will be selected so that the five wards are fairly represented.

The commission and boards which may designate a member for appointment shall do so within 45 days of the effective date of this ordinance and shall forward the names to the Mayor. Should a commission or board fail to designate a member for appointment within 45 days, the Mayor shall appoint the member from the general public.

Should a member from a designated commission or board be no longer able to serve on the Preservation Committee, the Mayor shall appoint a successor member.

### **Section XXX            Terms of Office**

- 1) The term of office for each member of the Committee shall be three years. No member shall serve more than two terms.
- 2) In order to stagger the terms of the members, the terms of the initial appointments shall be as follows:
  - a. the Historic Commission member, the Conservation Commission member, two At-Large member appointed by the Mayor shall serve for three (3) years;
  - b. the Housing Authority member, the Planning Board member and one At-Large member appointed by the Mayor shall serve for two (2) years;
  - c. the Parks and Recreation Member and one At-Large member appointed by the Mayor shall serve for one (1) year.
  - d. For purposes of this clause, the initial one (1) and two (2) year appointments shall be deemed not to constitute full terms.

### **Officers:**

- 1) The committee shall annually elect one of its members to serve as chairperson and may elect such other officers, adopt procedural rules and regulations and establish any subcommittees as it deems appropriate.
- 2) A Committee member may serve as chairperson for 2 consecutive years, after which he/she shall not be eligible to be nominated for the same position. However, a two-thirds (2/3) vote of the Committee can waive this provision.

**Vacancies:**

Any vacancy shall be filled by the respective Board, Commission, Authority or Mayor for the remainder of the unexpired time.

- 1) In the event that a Committee member is unable for any reason to complete serving a term, whether by failure of reappointment to his or her underlying board, commission or authority, or otherwise, the board, commission or authority responsible for designating said committee member shall forthwith designate another of its members to complete the remainder of the term.
- 2) All committee members shall serve on the committee without compensation.

**Section XXXX      Authority, Duties and Responsibility**

- 1) The Community Preservation Committee shall study the needs, possibilities and resources of the city regarding community preservation. The committee shall consult with the Mayor, the City Council, the Community Development Director, the Housing Authority Director, the Conservation Commission, the Historical Commission, the Zoning Board, the Parks and Recreation Director, the Chair of the Gloucester Housing Trust, Grants Director, Public Works Director and any persons acting in those capacities or performing like duties when conducting such studies.
- 2) As part of its study, the Committee shall hold one or more public information hearings annually on the needs, possibilities and resources of the City regarding the community preservation possibilities and resources, notice of which shall be posted publicly and published for each of the two weeks preceding a hearing in a newspaper of general circulation in the City and published electronically on the city's web site.
- 3) The Committee shall meet as necessary to carry out its duties, but in any fiscal year shall hold no fewer than three (3) meetings.
- 4) On or before November 1<sup>st</sup> of each year, the Committee shall make recommendations to the City Council for:
  - a. the acquisition, creation and preservation of open space;
  - b. the acquisition, preservation, rehabilitation and restoration of historic resources;
  - c. the acquisition, creation, preservation and support of community housing;
  - d. the acquisition, creation and preservation of land for recreational use; and
  - e. the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section.
- 5) With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
- 6) The Committee may include in its proposal to the City Council, a recommendation to set aside

for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund or to set aside for later spending funds for general purposes that are consistent with community preservation.

- 7) The Committee may recommend the issuance of general obligation bonds or notes, in accordance with the provisions of M.G.L., Chapter 44B, § 11, in anticipation of revenues to be raised pursuant to M.G.L., Chapter 44B, § 3, the proceeds of which shall be deposited in the Community Preservation Fund.
- 8) In every fiscal year, the Committee shall recommend that the City Council either spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of the following:
  - a. open space (not including land for recreational use);
  - b. historic resources
  - c. community housing
- 9) All recommendations and proposals submitted by the Committee to the City Council shall include the anticipated costs thereof.
- 10) No appropriation shall be made from the Community Preservation Fund without the approval of the City Council.
- 11) The Committee shall submit to the City Council, by March 1<sup>st</sup> of each year, an annual administrative and operating budget for the Committee for the next fiscal year, which shall not exceed five (5%) percent of that year's estimated annual Community Preservation Fund revenues.

#### **Section XXXXX Quorum and Voting**

- 1) Five (5) members shall constitute a quorum for the purpose of convening a meeting and of conducting the business of the Committee.
- 2) The Committee shall approve its actions by a majority vote of the quorum.

#### **Section XXXXXX Severability**

In the event any part of this Ordinance is for any reason declared invalid or unconstitutional by any court, the remainder of this Article shall continue in full force and effect.

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930



CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

TEL 978-281-9700  
FAX 978-281-9738  
ckirk@gloucester-ma.gov

November 7, 2011

Mr. Hugh Prichard  
582 Essex Avenue  
Gloucester, MA 01930

Dear Mr. Prichard:


Thank you for your interest in serving on the Conservation Commission. I have issued you a 90-day temporary appointment to serve on this committee which will enable you to attend and vote at meetings. Please report to the City Clerk's office at your earliest convenience to pick up your appointment card (*copy enclosed*) and be sworn in.

Your appointment will be forwarded to the City Council for their meeting of November 15, 2011 and will be referred out to the Ordinance and Administration subcommittee. You will receive a notice from the Clerk of Committees as to the date on which the O&A Committee will review your appointment.

Should you have any questions or if you require any additional information, please do not hesitate to contact my office.

On behalf of the City of Gloucester, I greatly appreciate your dedication to public service and look forward to working with you in the coming years to help make Gloucester a better place for all of us to live.

Sincerely,



Carolyn A. Kirk  
Mayor

cc: Mayor's Report to the City Council  
Sarah Garcia, Community Development Director  
Rob Gulla, Chair-Conservation Commission  
Enclosure  
CAK/c



EFFECTIVE NOVEMBER 7, 2011

**The City of Gloucester, Massachusetts**

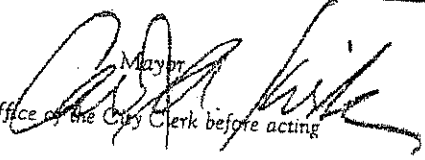
Dear Hugh Frichard, 582 Essex Avenue, Gloucester, MA 01930

It is my pleasure to inform you that I have this day appointed you

to the Conservation Commission \_\_\_\_\_ of the City of  
Gloucester, Massachusetts \_\_\_\_\_

This is a 90-day temporary appointment. After City Council  
approval, term to expire 2/14/2014.

Respectfully,

Mayor  


N.B. You are required to be sworn in at the office of the City Clerk before acting  
under this appointment.

Sworn in \_\_\_\_\_ By: \_\_\_\_\_

November 4, 2011

The Honorable Mayor Kirk  
City Hall  
9 Dale Avenue  
Gloucester, MA 01930

Dear Mayor Kirk and Mr. Gulla,

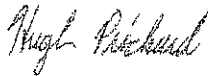
I am writing to express my interest in serving on the Gloucester Conservation Commission. I have lived in Gloucester my entire life and have learned to appreciate Gloucester's sense of community and amazing natural resources.

I grew up just below Tysver's Pond off of Essex Avenue. For many years I have skated on the pond and hope to for many more. Living below the pond and next to the stream that flows out of it has given me an appreciation for the cycles of nature and the related conservation issues. Recently I have been involved with the Commission, as my neighbor and I looked into options for repairing the dam partially on my property and also for a recent filing for my home.

I enjoy being in Gloucester very much and wish to be more involved with the community. I see the Commission as being a great way to do this.

Thank you for your consideration.

Sincerely,



Hugh Prichard

Cc:

Sarah Buck Garcia, AICP, Community Development Director  
Rob Gulla, Conservation Chair  
Lisa Press, Conservation Agent

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930



CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

TEL 978-281-9700  
FAX 978-281-9738  
ckirk@gloucester-ma.gov

November 10, 2011

Mr. John Montoni  
4 Woodward Avenue  
Gloucester, MA 01930

Dear Mr. Montoni:

Thank you for your interest in serving on the **Conservation Commission**. I have issued you a 90-day temporary appointment to serve on this committee which will enable you to attend and vote at meetings. Please report to the City Clerk's office at your earliest convenience to pick up your appointment card (*copy enclosed*) and be sworn in.

Your appointment will be forwarded to the City Council for their meeting of December 13, 2011 and will be referred out to the Ordinance and Administration subcommittee. You will receive a notice from the Clerk of Committees as to the date on which the O&A Committee will review your appointment.

Should you have any questions or if you require any additional information, please do not hesitate to contact my office.

On behalf of the City of Gloucester, I greatly appreciate your dedication to public service and look forward to working with you in the coming years to help make Gloucester a better place for all of us to live.

Sincerely,

Carolyn A. Kirk  
Mayor

cc: Mayor's Report to the City Council  
Sarah Garcia, Community Development Director  
Rob Gulla, Chair-Conservation Commission

Enclosure  
CAK/c

EFFECTIVE NOVEMBER 10, 2011

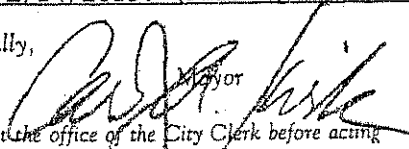
*The City of Gloucester, Massachusetts*

Dear John Montoni, 4 Woodward Avenue, Gloucester, MA 01930

It is my pleasure to inform you that I have this day appointed you  
to the CONSERVATION COMMISSION of the City of  
Gloucester, Massachusetts

This is a 90-day temporary appointment. After City Council  
approval, term to expire 2/14/2013. (Filling unexpired term  
of Helen C.P. Farr

Respectfully,

  
Mayor

N.B. You are required to be sworn in at the office of the City Clerk before acting  
under this appointment.

Sworn in \_\_\_\_\_ By: \_\_\_\_\_

4 Woodward Avenue  
Gloucester, MA 01930

November 9, 2011

The Honorable Mayor Kirk  
Gloucester City Hall  
9 Dale Avenue  
Gloucester, MA 01930

Re: Conservation Commission

Dear Mayor Kirk,

Please accept my letter of introduction regarding the available position on the Gloucester Conservation Commission. I look forward to serving on the Commission as it allows me to give back to the Gloucester community, which I so much enjoy and to be involved with one of my life's interests, conservation of the wetlands.

I have always lived within a stones throw of the water, having grownup in the Salem Willows area and for the past twenty years on the Little River area of Gloucester. I have a great appreciation of the value of the waterways. Helping others so that they may also enjoy living in harmony with the natural resources would be rewarding.

The other strong point that I have is the fact that I am a commercial shellfisherman and have daily exposure to the waterways. I have first hand knowledge of many of the areas and would be able to provide a prospective that would be valuable to the Commission.

Thank you for your consideration.

Sincerely,



John Montoni

cc:

Sarah Buck Garcia, AICP, Community Development Director  
Rob Gulla, Conservation Chair  
Lisa Press, Conservation Agent

**State law reference(s)**--Similar provisions, M.G.L.A. c. 41, § 70.

**Sec. 16-20. Annual report.**

The planning board shall annually make a written report of its activities to the mayor.

(Code 1970, § 15-18)

**State law reference(s)**--Similar provisions, M.G.L.A. c. 41, § 71.

Secs. 16-21--16-29. Reserved.

**ARTICLE III. CONSERVATION COMMISSION\***

**\*Cross reference(s)**--Boards, commissions, councils and committees, § 2-400 et seq.; conservation commission to promulgate rules and regulations relating to marshlands, § 12-19.

**Sec. 16-30. Created.**

There is hereby created a conservation commission under the authority of M.G.L.A. c. 40, § 8C.

(Code 1970, § 2-328)

**Sec. 16-31. Composition; appointment; terms of members.**

The conservation commission shall consist of seven (7) members, all of whom shall be residents of the city and all of whom shall be appointed by the mayor, subject to approval of the city council, to staggered terms of three (3) years.

(Code 1970, § 2-329)

**State law reference(s)**--Similar provisions, M.G.L.A. c. 40, § 8C.

**Sec. 16-32. Powers and duties.**

The conservation commission shall have all the duties and powers given to conservation commissions by M.G.L.A. c. 40, § 8C.

(Code 1970, § 2-330)

**Sec. 16-33. Condemnation of land or water upon commission's request.**

(a) For the purposes of this article, the city may, upon the written request of the conservation commission, take, by eminent domain under M.G.L.A. c. 79, the fee or any lesser interest in any land or waters located in the city, provided the taking has first been approved by two-thirds vote of the city council, which land and water shall thereupon be under the jurisdiction and control of the conservation commission.

(b) No action taken under this section shall affect the powers and duties of the state reclamation board or any mosquito control or other project operating under or authorized by M.G.L.A. c. 252, or restrict any established public access.

(c) Lands used for farming or agriculture, as defined in M.G.L.A. c. 128, § 1A shall not be taken by eminent domain under the authority of this section.

(Code 1970, § 2-331)

**State law reference(s)**--Similar provisions, M.G.L.A. c. 40, § 8C.

**Sec. 16-34. Rules and regulations; penalty for violations thereof.**

The conservation commission may adopt rules and regulations governing the use of land and waters under its control, and prescribe penalties, not exceeding a fine of one hundred dollars (\$100.00), for any violation thereof.

(Code 1970, § 2-332)

**State law reference(s)**--Similar provisions, M.G.L.A. c. 40, § 8C.

Secs. 16-35--16-44. Reserved.

**ARTICLE IV. RESERVED\***

**\*Editor's note**--An ordinance of May 27, 1986, § 1, repealed Art. IV, §§ 16-45--16-48, pertaining to the downtown development commission, as derived from Code 1970, §§ 2-414--2-417.

Secs. 16-45--16-59. Reserved.

**ARTICLE V. HISTORIC DISTRICT\***

**\*State law reference(s)**--Historic districts, M.G.L.A. c. 40C.

**Sec. 16-60. Purpose.**

The purpose of this article is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history or architecture of the city, and through the maintenance and improvement of settings for such buildings and places and the encouragement of designs compatible therewith.

(Ord. of 5-24-77, § 2)

**State law reference(s)**--Similar provisions, M.G.L.A. c. 40C, § 2.

**Sec. 16-61. Created.**

There is hereby established under the provisions of M.G.L.A. a historic district to be known as the Gloucester Historic District, which district shall include the area as shown on the plan on file in the city clerk's office.

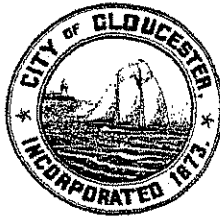
(Ord. of 5-24-77, § 3)

**State law reference(s)**--Municipal authority to establish historic districts, M.G.L.A. c. 40C, § 3.

**Sec. 16-62. Historic district commission--Established; membership; term of office; office.**

(a) There is hereby established, under M.G.L.A. c. 40C, a historic district commission with

Nineteen Harbor Loop  
Gloucester, MA 01930



TEL 978-282-3012

FAX 978-978-281-4188

[jcaulkett@gloucester-ma.gov](mailto:jcaulkett@gloucester-ma.gov)

**CITY OF GLOUCESTER**  
HARBORMASTER'S OFFICE

**Memorandum**

From: Jim Caulkett, Harbormaster  
To: Mayor Carolyn Kirk  
Date: October 27, 2011  
Subject: Mayor's Report to Council

Mayor Kirk,

In your next Report to Council, Budget and Finance Committee will you please include this proposed change to Gloucester City Ordinance Chapter 10, Section 10-51 (e) Fees.

The current Ordinance reads "Fee for 10A Float Permits shall be in the amount of \$50.00 per season".

At the scheduled July 2011 Waterways Board meeting the Board voted unanimously to recommend to City Council the following fee structure;

"10A Float Permits for float systems 200 square feet or less in size shall be in the amount of \$100.00 per season. For every 100 square foot increase the fee shall increase by \$50.00 per season.

If you have any questions please feel free to contact me.

Sincerely,

Jim Caulkett



**10-A Float Fees:** At the Operations & Finance meeting held in May the committee voted to increase the fee for 10-A Float Permits with the minimum being \$100.00. Each 100 sq. ft. would increase by \$50.00.

**>Motion:** On a motion of Cate Banks second by Peter Bent the Board voted unanimously that the Waterways Board send to the City Council the Board's recommendation of an increase in the 10-A Float Permit fee from the current \$50.00 for all 10-A Float Permits to \$100.00 for a 200 sq. ft. float and then increasing by \$50.00 per each 100 sq. ft. larger float. **Motion passed**

**10-A Float Permits in the DPA:** An e-mail was received through the Community Development Office asking for language that says could we put bottom anchored 10-A floats in the DPA. Chairman Gross reported on the correspondence from Ben Lynch stating that 10-A Floats are allowed in the DPA since they are not permanent structures, an annual permit and are easily removed. Chairman Gross further inquired if 10-A Floats can be attached to existing pilings or replaced pilings with a CH91. Chairman Gross stated clarification is needed on many questions brought up. Discussion followed on CH91.

**Corps Response to Floats in Federal Anchorage:** The Army Corp of Engineers would not necessarily be opposed to floats in the Federal Anchorage if they can be convinced this is the most efficient way to use the area and managed according to their policies. The Board would also need approval from their regulatory division which would likely issue a permit. Jim will set up a meeting with the Regulatory Division.

**Harbor Walk/Access to St. Peter's Commercial Docks:** Chairman Gross was invited to take a look at the proposed paving at a section of St. Peter's Park to make sure the access would still be available to the town Landing and commercial floats at St. Peter's Marina; no issue with this.

#### **Report of Committees:**

Operations & Finance/Safety: No quorum. Chairman Gross noted the way the City Council holds their sub-committee meetings when there is no quorum; if no member is there to make a quorum and a member of the council is in attendance that is not on the committee then the Chairman of this committee can continue the meeting. Referred to Regulations Review Committee.

Public Facilities: Cate spoke of the Wait List for commercial marinas. She checked with the State Pier after hearing of a non written gentlemen's agreement that if the person has dockage at the State Pier they cannot be placed on the Wait List for either commercial marina. They had not heard of this, but will look into it and get back to her. Cate feels the people on the Wait List for the marinas should be contacted to verify status and post it on the web site. St. Peter's decking was also discussed plus the regulations for Article 7. Cate will provide a copy of the enforcement wording for Article 7, City Owned Commercial Marinas in the August packets for Board members. Language on tenant's insurance being dropped by tenant(s) should be put in the lease and the City gets notified. Steve Dexter enlightened the Board on the procedure on insurance being cancelled or dropped; the City should be endorsed on the policy. He said the City should get a copy of the policy not just the endorsement sheet. Cate suggested a meeting with Jim, the Assistant Harbormaster, Subcommittees Office & Finance/Safety and Public Facilities so all have the same information on the regulations. Peter Bent spoke of a discussion with Patti Page on using County Way Landing to put 14 ft sailboats into the water. Referred to Public Facilities.

Regulations Review Committee: No meeting

**Harbormaster Report:** Jim Caulkett spoke of several requests for moorings: Mr. Phelps, Atlantic St. requesting a mooring as stated in his deed; Mr. Bagley, Hudson Rd has in his deed right to cross property for a mud mooring; Mr. Gillis, Rose Lane has a deeded right of way for a mud mooring. The Legal Department agrees with the deeds and moorings should be issued. The Department of Health has issued a citation of State plumping code to Ocean Crest Seafoods for dumping waste material into the harbor.



## **CITY OF GLOUCESTER 2011 CITY COUNCIL ORDER**

<b>ORDER:</b>	<b>#CC2011-054</b>
<b>Councillor</b>	<b>Ann Mulcahey</b>

<b>DATE RECEIVED BY COUNCIL:</b>	<b>11/15/11</b>
<b>REFERRED TO:</b>	<b>TC &amp; O&amp;A</b>
<b>FOR COUNCIL VOTE:</b>	

**ORDERED** that the GCO Sec. 22-287 entitled "Disabled veteran, handicapped parking" be amended by adding:

one (1) handicapped parking space across from Central Grammar Apartment's driveway in front of Mason Street #6-8

And further

**ORDERED** that this matter be referred to the Traffic Commission and the Ordinances and Administration Committee for review, recommendation and measurements.

Councillor Ann Mulcahey  
Ward 2



**CITY OF GLOUCESTER 2011  
CITY COUNCIL ORDER**

**ORDER:** #CC2011-055  
**Councillor** Greg Verga/Joe Ciolino

**DATE RECEIVED BY COUNCIL:** 11/15/11  
**REFERRED TO:** O&A, B&F & Administration  
**FOR COUNCIL VOTE:**

**ORDERED** that the Ordinances and Administration Committee and the Budget and Finance Committee in consultation with the DPW Director determine whether the City shall adopt MGL c40 sections 42G to 42I and c40 sec. 42K concerning assessment of water betterments and MGL c40 sec. 42J concerning the deferral of such betterments and further

**ORDERED** that the Code of Ordinances, Chapter 23 "Utilities", Art. III be amended by **ADDING** a new section 64 providing for special assessments for the whole or part of the costs of laying pipes in public and private ways for the conveyance or distribution of water as provided in MGLc40sec.42G.

(Note: the ordinance amendment would require that the Council first accept or locally adopt the referenced state laws)

Greg Verga  
Ward 5 Councillor

Joe Ciolino  
Councillor at Large

This matter is continued to October 3, 2011.

Councilor Curcuru left the meeting at 8:00 p.m. There was no longer a quorum of the City Council.

➤ 4. *Discussion of Distribution of Water; payment of costs by special assessment (ref'd from 7/26/11 City Council Mtg.)*

**Mr. Hale** showed the Committee a line map showing Becker Lane and explained that the City mains were renewed in the 1990s. Since the mid-1960's there have been seventeen divisions of land with no requirement to improve utilities. There are no hydrants up there. If you were going to be fighting a fire on Becker Lane they'd have to start from Concord Street. This water service continues to break. They run through yards, etc. and are "a mess". The City could take property by eminent domain to put water mains there. To put in a water main is \$185 per linear foot just for pipe; and he estimated it would cost about \$800,000 to \$900,000 to do. It's all granite there; and there are wetlands issues. This isn't the only neighborhood like this nor is it the most vulnerable. There are those neighborhoods that have "summer water", like Rust Island – all of it is fed by summer water or wells. There is no way to fight a fire in a traditional manner there. They'd have to relay pump to fight a fire from Sudbay's (automotive dealership). They couldn't have this project in the ground at Becker Lane until the spring even if he had the money with design, permitting and right of way taking. They better sewer projects all the time. The residents of Way Road and Page Street couldn't do a sewer project on their own. They were willing to pay for it if the City would manage the project. He showed the Committee the MGL that relates to water betterment (on file).

**Councilor Tobey** stated the betterment authority is the DPW Director. The problem here is that the water service is not adequate and wondered would this project be eligible for betterment treatment. **Ms. Lowe** stated most germane is that it is not part of the public system. The introduction of a new public system would be a 'betterment'. It is considered an "unwatered place". **Councilor Tobey** asked if it is enough of a distinction. **Ms. Lowe** believed that to be the case. She pointed out in their packet the MGL sections (c. 40, §42G, H, I and K) that if adopted locally, they could do 100% betterment. **Mr. Hale** stated it would need close review but they're looking at other tools also, as this is a big ticket project, prohibitive to some neighborhoods financially. It would be at a cost of about \$35,000 per household on Becker Lane for a water project. **Councilor Theken** pointed out that this would be an option to be examined. **Mr. Hale** stated they're coming forward with water projects quickly as it is time now to invest in the City's infrastructure. **Councilor Theken** asked they come back in October with other problem roads/areas of the City so that they know where they are so they can have a better picture of the situation. **Mr. Hale** stated they have a Water Master Plan under development now and hope to have it done by the first of the year, and confirmed they'll have a "snapshot in the fall."

By unanimous consent by the O&A Committee a request by Councilor Tobey is forwarded to the City Solicitor as follows: To obtain an opinion from General Counsel as to whether the water betterment procedures in MGL c. 40, §42 G, H, I, and K apply once accepted by the City if the City constructs a public distribution system in an area thereby replacing the preexisting private water system.

This matter is continued to November 14, 2011.

5. *Vehicle Traffic Speed Rates on Woodward Avenue (ref'd from 7/26/11 City Council Mtg.)*

**Councilor Theken** explained that this matter is with the Traffic Commission for a JAMAR study. The matter will be continued to September 19, 2011 to give the Traffic Commission time to make their recommendation.

This matter is continued to September 19, 2011.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:22 p.m.

Respectfully submitted,

Dana C. Jorgensson  
Clerk of Committees

City Hall  
Nine Dale Ave  
Gloucester, MA 01930



TEL 978-281-9700  
FAX 978-281-9738  
ckirk@ci.gloucester.ma.us

CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

MEMORANDUM

**TO:** City Council  
**FR:** Mayor Carolyn A. Kirk  
**RE:** Health Insurance Reform – Adoption of Legislation  
**DT:** November 14, 2011

Dear Councilors,

On July 12, 2011 the state legislature approved, and the Governor subsequently signed into law, a more streamlined process for making changes to employee health insurance.

For Gloucester to realize the benefits of this legislation, the City Council needs to adopt the relevant sections of Mass. General Law.

The Administration respectfully requests that the City Council of the City of Gloucester pursuant to § 21 of c 32B of the Massachusetts General Laws adopt §§21, 22 and 23 of c32B of the Massachusetts General Laws.

Referenced statutes are attached for your information.

Thank you.



Print

Acts

2011

**CHAPTER 69 AN ACT RELATIVE TO MUNICIPAL HEALTH INSURANCEE.**

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to authorize municipalities to implement local health insurance changes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

**SECTION 1.** Chapter 32B of the General Laws is hereby amended by striking out section 2, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 2. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Appropriate public authority", as to a county, except Worcester county, the county commissioners; as to a city, the mayor; as to a town, the selectmen; as to a district, the governing board of the district and for the purposes of this chapter if a collective bargaining agreement is in place, as to a commonwealth charter school as defined by section 89 of chapter 71, the board of trustees; and as to an education collaborative, as defined by section 4E of chapter 40, the board of directors.

"Commission", the group insurance commission established by section 3 of chapter 32A.

"Dependent", an employee's spouse, an employee's unmarried children under 19 years of age and any child 19 years of age or over who is mentally or physically incapable of earning the child's own living; provided, however, that any additional premium which may be required shall be paid for the coverage of such child 19 years of age or over; provided further, that "dependent" shall also include an unmarried child 19 years of age or over who is a full-time student in an educational or vocational institution and whose program of education has not been substantially interrupted by full-time gainful employment, excluding service in the armed forces; provided further, that any additional premium which may be required for the coverage of such student shall be paid in full by the employee. The standards for such full-time instruction and the time required to complete such a program of education shall be determined by the appropriate public authority.

"District", any water, sewer, light, fire, veterans' services or other improvement district or public unit created within 1 or more political subdivisions of the commonwealth to provide public services or conveniences.

"Employee", any person in the service of a governmental unit or whose services are divided between 2 or more governmental units or between a governmental unit and the commonwealth, and who receives compensation for any such service, whether such person is employed, appointed or elected by popular vote, and any employee of a free public library maintained in a city or town to the support of which that city or town annually contributes not less than one-half of the cost; provided, however, that the duties of such person require not less than 20 hours, regularly, in the service of the governmental unit during the regular work week of permanent or temporary employment; provided further, that no seasonal employee or emergency employees shall be included, except that persons elected by popular vote may be considered eligible employees during the entire term for which they are elected regardless of the number of hours devoted to the service of the governmental unit. A member of a call fire department or other volunteer emergency service agency serving a municipality shall be considered an employee, if approved by vote of the municipal legislative body, and the municipality shall charge such individual 100 per cent of the premium. If an employee's services are divided between governmental units, the employee shall, for the purposes of this chapter, be considered an employee of the governmental unit which pays more than 50 per cent of the employee's salary. But, if no one governmental unit pays more than 50 per cent of that employee's salary, the governmental unit paying the largest share of the salary shall consider the employee as its own for membership purposes, and that governmental unit shall contribute 50 per cent of the cost of the premium. If the payment of an

employee's salary is equally divided between governmental units, the governmental unit having the largest population shall contribute 50 per cent of the cost of the premium. If an employee's salary is divided in any manner between a governmental unit and the commonwealth, the governmental unit shall contribute 50 per cent of the cost of the premium. An employee eligible for coverage under this chapter shall not be eligible for coverage as an employee under chapter 32A. Teachers and all other public school employees shall be deemed to be employees during the months of July and August under this chapter; provided, however, that employee contributions for such health insurance for those 2 months are deducted from the compensation paid for services rendered during the previous school year. A determination by the appropriate public authority that a person is eligible for participation in the plan of insurance shall be final. Nothing in this paragraph shall apply to Worcester county or its employees.

"Employer", the governmental unit.

"Governmental unit", any political subdivision of the commonwealth.

"Health care flexible spending account", a federally-recognized tax-exempt health benefit program that allows an employee to set aside a portion of earnings to pay for qualified expenses as established in an employer's benefit plan.

"Health care organization", an organization for the group practice of medicine, with or without hospital or other medical institutional affiliations, which furnishes to the patient a specified or unlimited range of medical, surgical, dental, hospital and other types of health care services.

"Health reimbursement arrangement", a federally-recognized tax-exempt health benefit program funded solely by an employer to reimburse subscribers for qualified medical expenses.

"Optional Medicare extension", a program of hospital, surgical, medical, dental and other health insurance for such active employees and their dependents and such retired employees and their dependents, except elderly governmental retirees insured under section 11B, as are eligible or insured under the federal health insurance for the aged act, as may be amended from time to time.

"Political subdivision", any county, except Worcester county, city, town or district.

"Savings", for the purposes of sections 21, 22 and 23, shall mean the difference between the total projected premium costs for health insurance benefits provided by a political subdivision with changes made to health insurance benefits under section 22 or 23 for the first 12 months after the implementation of such changes and the total projected premium costs for health insurance benefits provided by that subdivision without such changes for the same 12 month period.

"Subscribers", employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision.

**SECTION 2.** Section 12 of said chapter 32B is hereby amended by adding the following paragraph:-

The board of a trust or joint purchase group established by 2 or more governmental units may vote to implement changes to co-payments, deductibles, tiered provider network copayments and other cost-sharing plan design features which do not exceed those which an appropriate public authority may offer under section 22; provided, however, that each governmental unit that is a member of a trust or group shall comply with the requirements set forth in section 21 before any such changes may be applied to the health insurance coverage of such governmental unit's subscribers. If such changes to the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features do not exceed those permitted under section 22, such changes shall be approved in accordance with the provisions of section 21.

**SECTION 3.** Said chapter 32B is hereby further amended by adding the following 9 sections:-

Section 21. (a) Any political subdivision electing to change health insurance benefits under sections 22 or 23 shall do so in the following manner: in a county, except Worcester county, by a vote of the county commissioners; in a city having Plan D

or a Plan E charter, by majority vote of the city council and approval by the manager; in any other city, by majority vote of the city council and approval by the mayor; in a town, by vote of the board of selectmen; in a regional school district, by vote of the regional district school committee; and in all other districts, by vote of the registered voters of the district at a district meeting. This section shall be binding on any political subdivision that implements changes to health insurance benefits pursuant to section 22 or 23.

(b) Prior to implementing any changes authorized under sections 22 or 23, the appropriate public authority shall evaluate its health insurance coverage and determine the savings that may be realized after the first 12 months of implementation of plan design changes or upon transfer of its subscribers to the commission. The appropriate public authority shall then notify its insurance advisory committee, or such committee's regional or district equivalent, of the estimated savings and provide any reports or other documentation with respect to the determination of estimated savings as requested by the insurance advisory committee. After discussion with the insurance advisory committee as to the estimated savings, the appropriate public authority shall give notice to each of its collective bargaining units to which the authority provides health insurance benefits and a retiree representative, hereafter called the public employee committee, of its intention to enter into negotiations to implement changes to health insurance benefits provided by the appropriate public authority. The retiree representative shall be designated by the Retired State, County and Municipal Employees Association. A political subdivision which has previously established a public employee committee under section 19 may implement changes to its health insurance benefits pursuant to this section and sections 22 and 23.

Notice to the collective bargaining units and retirees shall be provided in the same manner as prescribed in section 19. The notice shall detail the proposed changes, the appropriate public authority's analysis and estimate of its anticipated savings from such changes and a proposal to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected.

(c) The appropriate public authority and the public employee committee shall have not more than 30 days from the point at which the public employee committee receives the notice as provided in subsection (b) to negotiate all aspects of the proposal. An agreement with the appropriate public authority shall be approved by a majority vote of the public employee committee; provided, however, that the retiree representative shall have a 10 per cent vote. If after 30 days the appropriate public authority and public employee committee are unable to enter into a written agreement to implement changes under section 22 or 23, the matter shall be submitted to a municipal health insurance review panel. The panel shall be comprised of 3 members, 1 of whom shall be appointed by the public employee committee, 1 of whom shall be appointed by the public authority and 1 of whom shall be selected through the secretary of administration and finance who shall forward to the appropriate public authority and the public employee committee a list of 3 impartial potential members, each of whom shall have professional experience in dispute mediation and municipal finance or municipal health benefits, from which the appropriate public authority and the public employee committee may jointly select the third member; provided, however, that if the appropriate public authority and the public employee committee cannot agree within 3 business days upon which person to select as the third member of the panel, the secretary of administration and finance shall select the final member of the panel. Any fee or compensation provided to a member for service on the panel shall be shared equally between the public employee committee and the appropriate public authority.

(d) The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 22; provided, however, that any increases to plan design features have been made in accordance with the provisions of section 22. The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 23; provided, that the panel confirms that the anticipated savings under those changes would be at least 5 per cent greater than the maximum possible savings under section 22. If the panel does not approve implementation of changes made pursuant to section 22 or section 23, the public authority may submit a new proposal to the public employee committee for consideration and confirmation under this section.

(e) Within 10 days of receiving any proposed changes under sections 22 or 23, the municipal health insurance review panel shall: (i) confirm the appropriate public authority's estimated monetary savings due to the proposed changes under section 22 or 23 and ensure that the savings is substantiated by documentation provided by the appropriate public authority; provided, however, that if the panel determines the savings estimate to be unsubstantiated, the panel may require the public authority to submit a new estimate or provide additional information to substantiate the estimate; (ii) review the proposal submitted by the appropriate public authority to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise



be disproportionately affected; and (iii) concur with the appropriate public authority that the proposal is sufficient to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected or revise the proposal pursuant to subsection (f).

(f) The municipal health insurance review panel may determine the proposal to be insufficient and may require additional savings to be shared with subscribers, particularly those who would be disproportionately affected by changes made pursuant to sections 22 or 23, including retirees, low-income subscribers and subscribers with high out-of-pocket costs. In evaluating the distribution of savings to retirees, the panel may consider any discrepancy between the percentage contributed by retirees, surviving spouses and their dependents to plans offered by the public authority as compared to other subscribers. In reaching a decision on the proposal under this subsection, the municipal health insurance review panel may consider an alternative proposal, with supporting documentation, from the public employee committee to mitigate, moderate or cap the impact of these changes for subscribers. The panel may require the appropriate public authority to distribute additional savings to subscribers in the form of health reimbursement arrangements, wellness programs, health care trust funds for emergency medical care or inpatient hospital care, out-of-pocket caps, Medicare Part B reimbursements or reimbursements for other qualified medical expenses; provided, however that in no case shall the municipal health insurance review panel designate more than 25 per cent of the estimated savings to subscribers. The municipal health insurance review panel shall not require a municipality to implement a proposal to mitigate, moderate or cap the impact of changes authorized under section 22 or 23 which has a total multi-year cost that exceeds 25 per cent of the estimated savings. All obligations on behalf of the appropriate public authority related to the proposal shall expire after the initial amount of estimated savings designated by the panel to be distributed to employees and retirees has been expended. The panel shall not impose any change to contribution ratios.

(g) The decision of the municipal health insurance review panel shall be binding upon all parties.

(h) The secretary of administration and finance shall promulgate regulations establishing administrative procedures for the negotiations with the public employee committee and the municipal health insurance review panel, and issue guidelines to be utilized by the appropriate public authority and the municipal health insurance review panel in evaluating which subscribers are disproportionately affected, subscriber income and subscriber out-of-pocket costs associated with health insurance benefits.

Section 22. (a) Upon meeting the requirements of section 21, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may include, as part of the health plans that it offers to its subscribers not enrolled in a Medicare plan under section 18A, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a non-Medicare plan with the largest subscriber enrollment; provided, however, that for subscribers enrolled in a Medicare plan pursuant to section 18A the appropriate public authority may include, as part of the health plans that it offers to its subscribers, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a Medicare plan with the largest subscriber enrollment. The appropriate public authority shall not include a plan design feature which seeks to achieve premium savings by offering a health benefit plan with a reduced or selective network or providers unless the appropriate public authority also offers a health benefit plan to all subscribers that does not contain a reduced or selective network of providers.

(b) An appropriate public authority may increase the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features; provided that, for subscribers enrolled in a non-Medicare plan, such features do not exceed plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a non-Medicare plan with the largest subscriber enrollment and, for subscribers enrolled in a Medicare plan under section 18A, such features do not exceed plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a Medicare plan with the largest subscriber enrollment; provided, however, that the public authority need only satisfy the requirements of subsection (a) of section 21 the first time changes are implemented pursuant to this section; and provided, further that the public authority meet its obligations under subsections (b) to (h), inclusive, of section 21 each time an increase to a plan design feature is proposed.

Nothing herein shall prohibit an appropriate public authority from including in its health plans higher copayments, deductibles or tiered provider network copayments or other plan design features than those authorized by this section; provided, however, such higher copayments, deductibles, tiered provider network copayments and other plan design features may be included only after the governmental unit has satisfied any bargaining obligations pursuant to section 19 or chapter 150E.

(c) The decision to accept and implement this section shall not be subject to bargaining pursuant to chapter 150E or section 19. Nothing in this section shall preclude the implementation of plan design changes pursuant to this section in communities that have adopted section 19 of this chapter or by the governing board of a joint purchasing group established pursuant to section 12.

(d) Nothing in this section shall relieve an appropriate public authority from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter.

(e) The first time a public authority implements plan design changes under this section or section 23, the public authority shall not increase before July 1, 2014, the percentage contributed by retirees, surviving spouses and their dependents to their health insurance premiums from the percentage that was approved by the public authority prior to and in effect on July 1, 2011; provided however, that if a public authority approved of an increase in said percentage contributed by retirees before July 1, 2011, but to take effect on a date after July 1, 2011, said percentage increase may take effect upon the approval of the secretary of administration and finance based on documented evidence satisfactory to the secretary that the public authority approved the increase prior to July 1, 2011.

Section 23. (a) Upon meeting the requirements of section 21, an appropriate public authority which has undertaken to provide health insurance coverage to its subscribers may elect to provide health insurance coverage to its subscribers by transferring its subscribers to the commission and shall notify the commission of such transfer. The notice shall be provided to the commission by the appropriate public authority on or before December 1 of each year and the transfer of subscribers to the commission shall take effect on the following July 1. On the effective date of the transfer, the health insurance of all subscribers, including elderly governmental retirees previously governed by section 10B of chapter 32A and retired municipal teachers previously governed by section 12 of chapter 32A, shall be provided through the commission for all purposes and governed under this section. As of the effective date and for the duration of this transfer, subscribers transferred to the commission's health insurance coverage shall receive group health insurance benefits determined exclusively by the commission and the coverage shall not be subject to collective bargaining, except for contribution ratios.

Subscribers transferred to the commission who are eligible or become eligible for Medicare coverage shall transfer to Medicare coverage, as prescribed by the commission. In the event of transfer to Medicare, the political subdivision shall pay any Medicare part B premium penalty assessed by the federal government on retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan. For each subscriber's premium and the political subdivision's share of that premium, the subscriber and the political subdivision shall furnish to the commission, in such form and content as the commission shall prescribe, all information the commission deems necessary to maintain subscribers' and covered dependents' health insurance coverage. The appropriate public authority of the political subdivision shall perform such administrative functions and process such information as the commission deems necessary to maintain those subscribers' health insurance coverage including, but not limited to, family and personnel status changes, and shall report all changes to the commission. In the event that a political subdivision transfers subscribers to the commission under this section, subscribers may be withdrawn from commission coverage at 3 year intervals from the date of transfer of subscribers to the commission.

The appropriate public authority shall provide notice of any withdrawal by October 1 of the year prior to the effective date of withdrawal. All withdrawals shall be effective on July 1 following the political subdivision's notice to the commission and the political subdivision shall abide by all commission requirements for effectuating such withdrawal, including the notice requirements in this subsection. In the event a political subdivision withdraws from commission coverage under this section, such withdrawal shall be binding on all subscribers, including those subscribers who, prior to the transfer to the commission, received coverage from the commission under sections 10B and 12 of chapter 32A and, after withdrawal from the commission, those subscribers who received coverage from the commission under said sections 10B and 12 of said chapter 32A shall not pay more than 25 per cent of the cost of their health insurance premiums. In the event of withdrawal from the commission, the political subdivision and public employee unions shall return to governance of negotiations of health

insurance under chapter 150E and this chapter; provided, however, that the political subdivision may transfer coverage to the commission again after complying with the requirements of subsections (b) to (h), inclusive, of section 21.

The commission shall issue rules and regulations consistent with this section related to the process by which subscribers shall be transferred to the commission.

(b) To the extent authorized under chapter 32A, the commission shall provide group coverage of subscribers' health claims incurred after transfer to the commission. The claim experience of those subscribers shall be maintained by the commission in a single pool and combined with the claim experience of all covered state employees and retirees and their covered dependents, including those subscribers who previously received coverage under sections 10B and 12 of chapter 32A.

(c) A political subdivision that self-insures its group health insurance plan under section 3A and has a deficit in its claims trust fund at the time of transferring its subscribers to the commission and the deficit is attributable to a failure to accrue claims which had been incurred but not paid may capitalize the deficit and amortize the amount over 10 fiscal years in 10 equal amounts or on a schedule providing for a more rapid amortization. Except as provided otherwise herein, subscribers eligible for health insurance coverage pursuant to this section shall be subject to all of the terms, conditions, schedule of benefits and health insurance carriers as employees and dependents as defined by section 2 and commission regulations. The commission shall, exclusively and not subject to collective bargaining under chapter 150E, determine all matters relating to subscribers' group health insurance rights, responsibilities, costs and payments and obligations excluding contribution ratios, including, but not limited to, the manner and method of payment, schedule of benefits, eligibility requirements and choice of health insurance carriers. The commission may issue rules and regulations consistent with this section and shall provide public notice, and notice at the request of the interested parties, of any proposed rules and regulations and provide an opportunity to review and an opportunity to comment on those proposed rules and regulations in writing and at a public hearing; provided, however, that the commission shall not be subject to chapter 30A.

(d) The commission shall negotiate and purchase health insurance coverage for subscribers transferred under this section and shall promulgate regulations, policies and procedures for coverage of the transferred subscribers. The schedule of benefits available to transferred subscribers shall be determined by the commission pursuant to chapter 32A. The commission shall offer those subscribers the same choice as to health insurance carriers and benefits as those provided to state employees and retirees. The political subdivision's contribution to the cost of health insurance coverage for transferred subscribers shall be as determined under this section, and shall not be subject to the provisions on contributions in said chapter 32A. Any change to the premium contribution ratios shall become effective on July 1 of each year, with notice to the commission of such change not later than January 15 of the same year.

(e) A political subdivision that transfers subscribers to the commission shall pay the commission for all costs of its subscribers' coverage, including administrative expenses and the governmental unit's cost of subscribers' premium. The commission shall determine on a periodic basis the amount of premium which the political subdivision shall pay to the commission. If the political subdivision unit fails to pay all or a portion of these costs according to the timetable determined by the commission, the commission may inform the state treasurer who shall issue a warrant in the manner provided by section 20 of chapter 59 requiring the respective political subdivision to pay into the treasury of the commonwealth as prescribed by the commission the amount of the premium and administrative expenses attributable to the political subdivision. The state treasurer shall recoup any past due costs from the political subdivision's cherry sheet under section 20A of chapter 58 and transfer that money to the commission. If a governmental unit fails to pay to the commission the costs of coverage for more than 90 days and the cherry sheet provides an inadequate source of payment, the commission may, at its discretion, cancel the coverage of subscribers of the political subdivision. If the cancellation of coverage is for nonpayment, the political subdivision shall provide all subscribers health insurance coverage under plans which are the actuarial equivalent of plans offered by the commission in the preceding year until there is an agreement with the public employee committee providing for replacement coverage.

The commission may charge the political subdivision an administrative fee, which shall not be more than 1 per cent of the cost of total premiums for the political subdivision, to be determined by the commission which shall be considered as part of the cost of coverage to determine the contributions of the political subdivision and its employees to the cost of health insurance coverage by the commission.

(f) If there is a withdrawal from the commission under this section, all retirees, their spouses and dependents insured or eligible to be insured by the political subdivision, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents, shall be required to be insured by a Medicare extension plan offered by the political subdivision under section 11C or section 16. A retiree shall provide the political subdivision, in such form as the political subdivision shall prescribe, such information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information required, the retiree shall no longer be eligible for the retiree's existing health insurance coverage. The political subdivision may from time to time request from a retiree, a retiree's spouse and dependents, proof certified by the federal government of the retiree's eligibility or ineligibility for Medicare part A and part B coverage. The political subdivision shall pay the Medicare part B premium penalty assessed by the federal government on those retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan.

(g) The decision to implement this section shall not be subject to collective bargaining pursuant to chapter 150E or section 19.

(h) Nothing in this section shall relieve a political subdivision from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter or change eligibility standards for health insurance under the definition of "employee" in section 2.

Section 24. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter may provide health care flexible spending accounts to allow certain subscribers, as determined by the appropriate public authority, to set aside a portion of earnings to pay for qualified expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 25. Notwithstanding any general or special law or regulation to the contrary, the appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter or transfer its subscribers to the commission under this chapter may provide health reimbursement arrangements to reimburse subscribers for qualified medical expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 26. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter shall conduct an enrollment audit not less than once every 2 years. The audit shall be completed in order to ensure that members are appropriately eligible for coverage.

Section 27. An insurance carrier, third party purchasing group or administrator or the commission in the case of a governmental unit, which has undertaken to provide health insurance coverage to its subscribers by acceptance of sections 19 or 23, shall, upon written request, provide the governmental unit or public employee committee with its historical claims data within 45 days of such request; provided, that all personally identifying information within such claims shall be redacted and released in a form and manner compliant with all applicable state and federal privacy statutes and regulations including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996.

Section 28. Nothing in section 21, 22 or 23 shall be construed to prevent 2 or more governmental units under a joint purchase or trust agreement from jointly negotiating and purchasing coverage as authorized in section 12.

Section 29. Each fiscal year, the commission shall prepare and place on its website a report delineating the dollar amount of the copayments, deductibles, tiered provider network co-payments and other design features offered by the commission in the non-Medicare plan with the largest subscriber enrollment and the dollar amount of the copayments, deductibles, tiered provider network copayments and other design features offered by the commission in the Medicare extension plan with the largest subscriber enrollment. The commission shall also provide information on its plans with the largest subscriber enrollment upon request of any appropriate public authority or political subdivision.

**SECTION 4.** Notwithstanding any general or special law to the contrary, an appropriate public authority that implements changes to health insurance benefits pursuant to sections 22 and 23 of chapter 32B of the General Laws shall delay

implementation of such changes, as to those subscribers covered by a collective bargaining agreement or section 19 agreement that is in effect on the date of implementation of such changes, of any changes to the dollar amounts of copayments, deductibles or other cost-sharing plan design features that are inconsistent with any dollar limits on copayments, deductibles or other cost-sharing plan design features that are specifically included in the body of that collective bargaining agreement or section 19 agreement, until the initial term stated in that collective bargaining agreement or section 19 agreement has ended.

**SECTION 5.** Nothing in this act shall be construed to alter, amend or affect chapter 36 of the acts of 1998, chapter 423 of the acts of 2002, chapter 27 of the acts of 2003 or chapter 247 of the acts of 2004.

**SECTION 6.** Notwithstanding any general or special law to the contrary, the group insurance commission shall prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before January 1, 2012, if such political subdivision provides notice to the group insurance commission on or before September 1, 2011, that it is transferring its subscribers to the group insurance commission under sections 19 or 23 of chapter 32B of the General Laws; provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before April 1, 2012, if such political subdivision provides notice to the group insurance commission on or before December 1, 2011, that it is transferring its subscribers to the group insurance commission under said sections 19 or 23 of said chapter 32B; provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before July 1, 2012, if such political subdivision provides notice to the group insurance commission on or before March 1, 2012, that it is transferring its subscribers to the group insurance commission under said sections 19 or 23 of said chapter 32B.

**SECTION 7.** Notwithstanding any general or special law to the contrary, unless otherwise agreed, a governmental unit transferring its subscribers to the group insurance commission under section 23 of chapter 32B of the General Laws shall use current contribution ratios in existence for each class of plan for each collective bargaining unit in order to transfer to the commission. If a governmental unit was not offering both a preferred provider organization plan or an indemnity plan on the date of transfer to the commission, the governmental unit's initial contribution ratio toward the commission's preferred provider organization plans and indemnity plans shall be the ratio that the governmental unit was contributing toward its preferred provider organization plan or indemnity plan for each collective bargaining unit on that date. Except as specifically provided in this section, all contribution ratios shall remain subject to bargaining pursuant to chapter 32B of the General Laws and chapter 150E of the General Laws.

*Approved, July 12, 2011.*

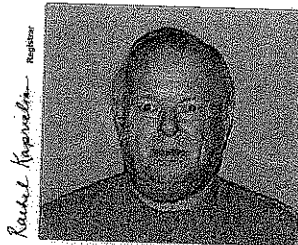
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